

[REDACTED]
[REDACTED]
[REDACTED]
OCT 25 1990

CERTIFIED MAIL

Dear Applicant:

We have considered your application for exemption from federal income tax as an organization described in section 501(c)(3) of the Internal Revenue Code.

The information submitted discloses that you were incorporated under the non-profit corporation of the State of [REDACTED] on [REDACTED].

The purposes for which your corporation was formed are stated as the charitable, literary, scientific, religious and educational purposes provided for under section 501(c)(3) of the Internal Revenue Code.

Your activities will consist of operating an adoptive service for birthparents and adoptive parents residing only in [REDACTED]. You intend to operate similar to the [REDACTED], a taxable entity. The chairman of your Board is also a Board member of the taxable entity. You will provide counseling, intermediary and legal services to birthparents and adoptive parents. You will carry out compassionate, open adoptions and aggressive recruitment of loving homes for special needs children. There will be no fee to birthmother or adoptive parents in the adoption of minority, handicapped and special needs children.

Any care of the birthmother will either be paid for by herself, insurance or by the prospective adoptive parents. Many birthmothers will be sought by commercial newspaper advertisements. Primarily the adoptive parents will advertise and list telephone numbers where they may be reached by a collect call.

Your receipts will be derived from adopting parents.

The expenditures of the organization would be for legal services, insurance, salaries, taxes and licenses, telephone and travel. An escrow account would be established for use in defraying the medical costs for special needs children. Another donation from revenues will be made for free of charge adoption services to birthmothers and adoptive parents of minority, handicapped and special needs children.

Code	Initiator	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer
Surname	[REDACTED]	[REDACTED]	[REDACTED]				
Date	10-5-90	10-9-90	10/25/90				

Section 501(c)(3) of the Code provides for the exemption from federal income tax of organizations which are organized and operated exclusively for religious, charitable, educational purposes, "no part of the earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda or otherwise attempting, to influence legislation, (except as otherwise provided in subsection (h)), and which does not participate in or intervene in including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office."

Regulations section 1.501(c)(3)-1(c)(1) stipulates that an organization will be regarded as operated exclusively for one or more exempt purposes only if it engages primarily in activities which accomplish any of the activities specified in section 501(c)(3). An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose

In *Easter House v. The United States*, U.S. Claims Court 265-86T, 6/10/87 it was held that an organization that provided prenatal care for pregnant women, delivered babies, and placed children with adoptive parents was not distinguishable from a commercial adoption agency," and therefore, a substantial purpose of the adoptive activity was a non-exempt commercial purpose. The adoption agency relied entirely on fees charged to adoptive parents, it sought no funds from federal, state, or local sources, it did not engage in fund-raising programs, and it did not solicit contributions. Furthermore, the adoption agency had no plans to seek contributions or government grants or engage in fund-raising activities relative to its operations, and it did not coordinate its adoption activities with any governmental adoption agencies. Also, the fixed fees the adoption agency charged adoptive parents were not subject to downward adjustment to meet potential adoptive parent's income or ability to pay. Finally, the adoption agency was structured and operated more like a commercial organization. Its membership was organized into a single life membership and an ordinary membership. Its membership was organized into a single life membership and an ordinary membership. Similar to a sole stockholder in a commercial corporation, the life member had inherent power and control, like stock, such life membership was transferable, and like a commercial corporation, the agency had a paid staff of 15 to 20 persons, without volunteer help.

[REDACTED]

As in the court case cited above, your organization will rely entirely on fees charged to adoptive parents, you seek no funds from federal, state or local sources, will not engage in fund-raising programs and you will not solicit contributions. You also will not coordinate your adoption activities with any governmental adoption agencies nor are your fees scaled to meet potential adoptive parents income or ability to pay. The organization is not a membership organization and is operated by [REDACTED] professional persons. Intermediary and legal fees will be charged on a flat fee basis.

Based on the information in the preceding paragraph we have determined that you are not entitled to exemption under section 501(c)(3) and are a taxable entity. You are required to file federal income tax returns on Form 1120.

Contributions to your organization are not deductible under section 170 of the Code.

If you do not agree with our determination, you may request consideration of this matter by the Office of Regional Director of Appeals. To do this, you should file a written appeal as explained in the enclosed Publication 892. Your appeal should give the facts, law, and any other information to support your position. If you want a hearing, please request it when you file your appeal and you will be contacted to arrange a date. The hearing may be held at the regional office, or, if you request, at any mutually convenient district office. If you will be represented by someone who is not one of your principal officers, that person will need to file a power of attorney or tax information authorization with us.

If you do not appeal this determination within 30 days from the date of this letter, as explained in the enclosed Publication 892, this will become our final determination on this matter. In accordance with section 6104(c) of the Code, we are notifying the appropriate state officials of this determination. Further, if you do not appeal this determination within the time provided, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7428(b)(2) provides, in part, that, "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Claims Court, or the district court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service."

Sincerely yours,

[REDACTED]
District Director

Enclosure: Publication 892

cc: [REDACTED]